

# Overview of Recall Procedures

# McKinney Charter: Removal/Disqualification/Forfeiture

- Under state law (statutory and case law), there are only three circumstances where an elected official may be removed by the McKinney City Council:
  - After Recall Election (by a majority of voters)
  - After forfeiture for failure to reside in City or Council District
  - For failure to maintain qualifications under City Charter Section 15 or 15b
- Removal under City Charter Section 30 or Ethics Ordinance is not available.
- The City's remedy for an elected official who fails to voluntarily step down after removal is a lawsuit declaring a vacancy (injunction)

# McKinney's Recall Provision

## ■ Current City Charter: Sec. 145. – Recall Petitions.

- The recall petition to be effective must be returned and filed with the City Secretary within 30 days after the filing of the affidavit required for initiative and referendum petitions, and it **must be signed by registered voters of the City equal in number to at least 25% of the total number of votes cast at the last regular municipal election**; provided, however, that the petition shall contain the signatures of **at least 15% of the qualified voters** of the City and shall conform to the provisions of initiative and referendum petitions. No petition papers shall be accepted as part of petition unless it bears the signature of the City Secretary as required in initiative and referendum petitions.

## ■ 1959 Charter: Sec. 154. – Recall Petitions.

- The recall petition to be effective must be returned and filed with the City Secretary within 30 days after the filing of the affidavit required in Section 143, and it must be signed by qualified electors of the City equal in number to at least 25% of the total number of votes cast at the last general municipal election; provided, however, that the petition shall contain the signatures of at least 15% of the qualified electors of the City, and shall conform to the provisions of Section 143 herein. No petition papers shall be accepted as part of petition unless it bears the signature of the City Secretary as required in Section 143 herein.

# Definition of a Qualified Voter

- “A reference in a law outside the code to ‘qualified voter’ in the context of eligibility to sign a petition means ‘registered voter.’”

Election Code § 266.002 I

- References within the Election Code to “**qualified voter**” mean:

- 18 years or older
- United States citizen
- Had not been determined to be mentally incapacitated
- Has not been finally convicted of a felony
- Resident of Texas
- **Registered voter**

Election Code § 11.002(a)

# Recall Petition Requirements in Nearby Home-Rule Cities

- Plano: Signed by qualified voters equal in number to at least 30% of the number of votes cast at the city's last regular municipal election, but no less than 150 signatures.
- Frisco: Signed by qualified voters of the city of at least 30% of the number of votes cast at the last regular mayoral election, or 150, whichever is greater.
- Allen: Signed by 10% of the total number of registered voters of the city as of the date of the last general election for city officers.

# Recall Petition Requirements in Nearby Home-Rule Cities

- Prosper: Signed by qualified voters of the Town of at least 30% of the number of voters voting in the last regular Town election, or 150, whichever is greater.
- Melissa: Signed by qualified voters of the City of at least 10% of the total number of registered voters in the City at the last regular City election.
- Wylie: Contains the signatures equal in number to no fewer than 15% of the qualified voters.

# Qualifications to Run for Office

- Under state law, an individual running for office must:
  - Be a citizen of the United States;
  - Be at least 18 years old on the date of the election; and
  - Have lived in the State of Texas for at least 12 consecutive months prior to the filing date for the election, and the city or ward for which they are seeking office for at least 6 months prior to the filing date of the election.

Election Code § 141.001(a)

# Additional Requirements in City Charter

## ■ City Charter Sec. 15. – Council qualifications.

- Each member of the City Council shall, in addition to the other qualifications prescribed by Section 10 of the Charter and by law, **be a qualified voter** of the City of McKinney not less than one (1) year prior to the date the application is filed by the candidate filing for City Council office, and such qualifications shall be established through documentation submitted to the City Secretary at the time of filing.

## ■ City Charter Sec. 15b – Residency requirements for council candidates.

- The candidates for Mayor and for the two (2) Council Members at Large offices shall have physically resided, as such term is defined in Section 10, within the McKinney City limits for not less than 1 year prior to election day. Each candidate for a Council District shall have physically resided within the boundaries of the Council District which they seek to represent for a period of not less than 1 year prior to election day.
- Any member of the City Council who ceases to physically reside within the City during the term for which they are elected shall immediately forfeit that office.
- Any member of the City Council who ceases to reside within the Council District which they are elected to represent, during the terms for which they are elected, shall immediately forfeit that office.



# Charter Amendments

- State law – Local Government Code Sec. 9.004(a):
  - The governing body of a municipality on its own motion may submit a proposed charter amendment to the municipality's qualified voters for their approval at an election. The governing body shall submit a proposed charter amendment to the voters for their approval at an election if the submission is supported by a petition signed by a number of qualified voters of the municipality equal to **at least five percent of the number of qualified voters of the municipality**, or 20,000, whichever number is the smaller.
- City Charter – Sec. 179
  - This Charter may be amended no more than once every two (2) years as provided by the laws of the State of Texas.

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